

**University of Texas School of Law
64th Annual Taxation Conference**

**Keeping your Client and Yourself out
of Jail – Criminal Tax and Money
Laundering Issues Facing the
Practitioner**

December 1, 2016

Panel

- **Mr. Ian M. Comisky**, Partner, Fox Rothschild LLP, Philadelphia, PA
- **Mr. William Cotter**, Internal Revenue Service, Criminal Investigation, San Antonio, TX
- **Ms. Mary T. Vidas**, Partner, Blank Rome LLP, Philadelphia, PA

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Problem 1

Your client's husband operates and owns a retail jewelry store "Largest Choice in Town." For at least ten years, the husband has maintained an "inventory cushion." The cushion results in an understatement of his ending inventory, increases the cost of goods sold and, therefore, understates taxable income. The cushion was unknown to your client, the wife. The income from the jewelry store has been reported on a subchapter-S corporate tax return. Your client informs you the stock in the store is owned equally by her and her husband. The store is the only significant marital asset.

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Your client also tells you that last week, just prior to moving out of the marital home (and after discovering her husband's infidelity) she searched every "nook and cranny" looking for potentially damaging material. She discovered a set of handwritten notes indicating the true value of the jewelry inventory as being in excess of \$5M. As counsel, you obtain a copy of the 2013-2015 Subchapter-S income tax returns and discover that the ending inventory reflected on the return was \$4 million, \$2.5 million and \$10 million in these years. Your client has filed joint personal tax returns with the husband.

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Questions

The divorce proceeding has not been going well on custody issues and your client now presses you to play the "inventory card."

What can you ethically do?

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Your client also knows enough about the tax laws to be concerned about her innocent spouse status. You examine the 2009-2014 joint personal income tax returns which reflect \$200,000 of taxable income per year. Your client has been living "well" for a number of years and her personal budget was in excess of \$20,000 a month.

What advice do you give her?

What obligation do you have to recommend the filing of amended returns?

What might the government do if amended returns are filed?

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